

## **RULE VI**

### **JURY DEMAND**

**[Effective 9/1/02]**

- (1) A party who has filed a jury demand shall make an advance deposit for costs in the amount of \$300.00 at least 14 days prior to the date set for trial. If said party fails to make the deposit within that time, any other party may deposit said sum with the clerk at least seven days prior to the date set for trial. Failure to make the required deposit shall constitute a waiver of the right to a jury trial.
- (2) In any case wherein the court has waived the requirement of an advance deposit based upon a party's indigency, such party's obligation under section (1) shall be fulfilled by filing and serving written notice of the party's intention to proceed to a jury by the deadline for making a deposit. Said notice must be addressed to the Chief Civil Deputy Clerk of Court.

## **RULE VII**

### **SELECTION OF JURORS**

Pursuant to [\*\*Ohio Revised Code Section\*\*](#) 1901.25, jurors for the Hamilton County Municipal Court, in all cases, shall be chosen and summoned by the Hamilton County Jury Commissioner, as provided in [\*\*Ohio Revised Code Section\*\*](#) 2313.01 to 2313.26 inclusive.

## **RULE VIII**

### **HEARING IN BANC**

The presiding judge may, in his/her discretion, assign two or more judges of this court to hear and determine any action, or may assign one or more judges of the court to sit with himself/herself in the hearing of any action.

## **RULE IX**

### **ATTORNEY OR COURT OFFICER AS SURETY**

No attorney or officer of this court will be received as bail or surety in any matter in this court.

## **RULE X**

### **COURT INDEX**

The Court Index, published in Cincinnati, Ohio, shall be the official publication of the court and judges, and any notice which the court or any judge may desire to give to attorneys, of any matter, may be given by publication in the Court Index, and such publication shall be deemed a sufficient notice to all attorneys interested unless otherwise provided in these rules. However, should any discrepancy or difference exist between publication in the Court Index and official notification of attorneys or parties by the clerk of this court, then the official notification by the clerk of this court shall take precedence and control.

## **RULE XI**

### **COGNOVIT NOTE PROCEDURE AND CONFESSION OF JUDGMENT**

The following provisions shall govern the entry of judgment by confession upon a warrant of attorney:

1. The complaint shall contain the defendant's address and a certification by the attorney that, to the best of the attorney's knowledge, it is the defendant's last known address.
2. Along with the complaint, the attorney shall file with the clerk the original or a copy of the warrant. If a copy is to be filed, the attorney shall produce the original warrant to the clerk who shall first certify the copy as true and correct before accepting it for filing and then stamp and return the original to the attorney. If the warrant is contained in an instrument executed on or after January 1, 1974, the clerk shall not accept it unless it contains the warning required by R. C. 2323.13(D)
3. If the signature on the instrument is not notarized, the plaintiff shall file an affidavit based on personal knowledge that the signature is that of the defendant against whom judgment is sought.
4. The attorney shall file his or her own affidavit setting forth a succinct description of the transaction that gave rise to the instrument containing the warrant and stating affirmatively that the instrument did not arise out of a consumer loan or a consumer transaction as defined in R. C. 2323.13, and stating that the maker of the instrument, or one of them, either resides in or signed the instrument in, Hamilton County.
5. Immediately upon entering a judgment by confession, the clerk shall send to the defendant a certified letter, return receipt requested, at the address set forth in the complaint, notifying the defendant of the entry of judgment in accordance with R. C. 2323.13

## **RULE XII**

### **APPEARANCE AND WITHDRAWAL OF COUNSEL**

An attorney, having entered an appearance or being counsel of record in any matter before this court, shall appear at all hearings pursuant to proper notice. Such attorney may, upon motion timely filed, and in accordance with Rule 1.16 of the Rule of Professional Conduct as adopted by the Supreme Court of Ohio, request permission of this court to withdraw from a matter pending in this court. An entry, upon hearing had, must then be placed of record in the matter and journalized.

## **RULE XIII**

### **CUSTODY OF PAPERS**

The clerk of this court shall be in charge of all papers filed in this court and shall not permit any court papers to be taken from his/her custody except upon a written order of a judge of this court. A written receipt shall be given by the person taking out said papers and when said papers are returned the date of said return shall be noted on said receipt and said receipt shall be retained as part of the permanent records of the case. The deputy clerk releasing said papers shall sign his/her name and date on said release and the deputy clerk receiving said papers in return shall sign his/her name and date of receiving same. The clerk shall accept no final judgment entries unless each and all named defendants of the suit are so listed on the entry. The term "et al." is not acceptable.

## **RULE XIV**

### **TRUSTEESHIP**

Any person entitled to the benefits of [\*\*Ohio Revised Code\*\*](#) Sections 2329.70 and 2329.71, and desiring to receive the benefits thereof, may file with the clerk of Hamilton County Municipal Court, an application, sworn to under oath, which shall contain an accurate account and complete statement of the names and addresses of his/her unsecured creditors, with liquidated claims, and the amount due and owing to each of them, and also the amount if any due and owing to each for work, labor and necessaries. The clerk shall thereupon notify such debtor that said application will be presented to a judge of the Hamilton County Municipal Court upon a date to be fixed by the clerk. The clerk shall likewise instruct said debtor to be present at the time and place, upon the hearing of said application.

Any proof of claim by a creditor shall be verified before an officer authorized to administer oaths. Such proof of claim shall state the creditor's correct address, the amount which such creditor believes to be due him/her, the consideration for such claim and that it is for work and labor or necessities, if such be the fact.

Any claimant or the debtor may by motion obtain a hearing to settle disputes concerning any proof of claim filed.

(1) The debtor shall pay to the clerk, as trustee, monthly, semi-monthly or weekly, in cash, the portion of his/her wages not exempt by law and such portion as such debtor wishes to pay over and above said sum not exempt by law.

(2) Within ninety (90) days after the receipt of such payments from the debtor, the clerk shall deliver checks payable to the order of the debtor's creditors, addressed to the creditors, to the address shown upon the creditor's authenticated proof of claim. Within the same time limit such checks shall be mailed to all creditors living outside of the jurisdiction of this court to the address shown upon the creditor's authenticated proof of claim.

(3) All funds received by the clerk shall be deposited in the bank designated by this court as the depository for funds held by the clerk as trustee to prevent garnishment. Such deposits shall be in the name of the clerk.

## **RULE XV**

### **SMALL CLAIMS DIVISION**

- (1) The Rules of Practice of this court, to the extent that they would by their nature be clearly inapplicable, shall not apply to the practice and procedure in the Small Claims Division of the court, which has been established under [Ohio Revised Code](#) Chapter 1925.
- (2) In order to avoid multiple court appearances, the assigned hearing date of a matter in Small Claims court shall be the date of trial, and all parties and their witnesses shall appear in court on that date prepared for trial.
- (3) If a defendant's first appearance is the filing of an answer and a request to transfer to the regular docket, the motion to transfer shall be automatically granted. If the parties have appeared at least one time, any motion to transfer to the regular docket shall be granted or denied at the discretion of the small claims magistrate. If a defendant effectuates a transfer to the regular docket by the filing of a jury demand or a counterclaim exceeding the jurisdictional limit of the Small Claims Division, the defendant shall pay the Small Claims transfer fee in addition to the applicable jury demand or counterclaim fees.
- (4) If either party files a written motion for continuance 5 days or more prior to the scheduled trial, the motion shall be granted. Any motion filed less than 5 days prior to trial shall be granted or denied at the discretion of the small claims magistrate.
- (5) The Hamilton County Municipal Court Small Claims Division will accept fax entries for filing purposes only if the entry is accompanied by a face or origination sheet which documents the authenticity of the fax entry. If the fax entry is not accompanied by an original sheet or face sheet or if the fax entry lacks the appearance of authenticity, the fax entry will not be accepted by the municipal court for filing purposes.
- (6) Written decision of magistrates will contain appropriate language that the designated judge has reviewed same and that the decision is adopted. This language will precede a place where a judge of the Hamilton County Municipal Court can sign the decision of the magistrate. All decisions of magistrates will be microfilmed as an official entry of the Hamilton County Municipal Court.
- (7) If a named plaintiff has contemporaneously filed more than one small claims complaint against the same defendant, and the aggregate amount of the plaintiff's monetary demand exceeds the jurisdiction of the small claims division, then the magistrate shall notify that plaintiff that the aggregate of these filings exceeds the jurisdiction of the small claims division and that the plaintiff is required to file this action in the general division of the Hamilton County Municipal Court. Since plaintiff has improperly invoked jurisdiction of the small claims division by filing more than one

complaint against a defendant, the court is required to dismiss this cause of action without prejudice, and not transfer it to the general division docket.

## **RULE XVI**

### **DISCOVERY**

Interrogatories and requests shall not be filed with the court except in connection with a motion to compel discovery pursuant to [Civil Rule 37](#) or in accordance with [Civil Rule 56 \(C\)](#).

## **RULE XVII**

### **REPLEVINS**

Actions in replevin shall be set for hearing to determine the right to an order of delivery within twenty (20) days after filing. The court subsequently may conduct a second hearing and determine any remaining issues.

The civil bailiffs who serve replevins for the Hamilton County Municipal Court shall enter an unoccupied dwelling by use of a certified locksmith after reasonable effort has been made to enter as defined by O.R.C. 2737.17.

Bonds on replevins are hereby eliminated.